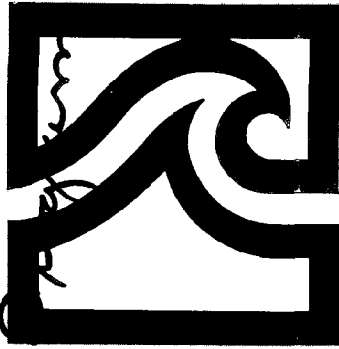


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Wisconsin
Coastal
Management
Program

SHORELAND-WETLAND ZONING ORDINANCE
FOR THE ONEIDA RESERVATION
ONEIDA TRIBE OF INDIANS OF WISCONSIN

REVISED VERSION SEPTEMBER 1991

DRAFT

CZIC COLLECTION

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Management Program.*

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[SHORELAND-WETLAND ZONING ORDINANCE
FOR THE ONEIDA RESERVATION
ONEIDA TRIBE OF INDIANS OF WISCONSIN
ADOPTED DECEMBER 7, 1981
BY The Action of the Oneida Business Committee

REVISED VERSION SEPTEMBER 1991
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SHORELAND-WETLAND ZONING ORDINANCE FOR THE
ONEIDA INDIAN RESERVATION IN WISCONSIN

1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF
PURPOSE AND TITLE

The General Tribal Council of the Oneida Tribe of Indians of Wisconsin has authorized in Article IV, section 1 (F) of the Constitution and By Laws of the Oneida Tribe of Indians of Wisconsin, does enact this Ordinance which shall be known as the Oneida Tribe of Indians of Wisconsin Shoreland-Wetland Protection Ordinance.

1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in sections 61.35 and 61.351 for villages or 62.23 and 62.231 for cities and 87.30 and 144.26, Wis. Stats.

1.2 FINDING OF FACT AND PURPOSE

1.21 FINDING

The Oneida Tribe of Indians of Wisconsin finds that the Shoreland-Wetlands areas of the reservations are among the most valuable and fragile of its natural resources and that there is great concern related to their utilization, protection, restoration and preservation. Increasing pressures due to land development increases the need for management of the Shoreland-Wetland areas.

The Tribe further finds that much of the wetlands of the reservation are held in private ownership and that certain development and use trends on the privately owned or publicly owned shorelands of the reservation are not in the best interest of the tribe or other residents of the reservation. Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the reservation would adversely affect the public health, safety, convenience, and general welfare of the Tribe. Therefore, planning and management is necessary in order to protect the Tribal and public interest associated with the shoreland-wetlands of the reservation. The Tribe agrees with the mandate of the Legislature of Wisconsin as it has delegated responsibility to all municipalities to:

- (1) Promote the public health, safety, convenience and general welfare;
- (2) Maintain the storm and flood water storage capacity of wetlands;

- (3) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (5) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (6) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

To optimize the accomplishment of the goals and objectives of this ordinance, comprehensive management of all regions within the reservation is needed. To further this, intergovernmental coordination and cooperation shall be sought. Intergovernment collaboration could take the forms of technical assistance, agreements, compacts, boards and/or agencies.

1.22 PURPOSE

To protect human life and health, the natural environment, aquatic and terrestrial organisms, aesthetic and ecological values, appropriate water uses, and environmentally significant areas within the shoreland area.

Diminished water quality adversely affects the recreational uses and the habitats for game species of fish. The public health is adversely affected by threatened water quality. Therefore, to protect and improve the quality of waters on the Oneida Indian Reservation in Wisconsin and thus protect and improve the public health and general welfare of all people therein, these land use measures, which include zoning, are taken.

Furthermore, these land-use controls will regulate use in floodplains and on steep slopes and thereby promote public safety and minimize the risk of flood and erosional damage. These controls will enhance the quality and livability of human settlements by promoting and maintaining the natural, aesthetic values of Shoreland areas.

Shoreland areas including associated wetlands which are important reproduction, nursery, resting, migration, and feeding areas for many species of fish, waterfowl, and other wildlife will be protected. The habitat of endangered species of which the Wood Turtle, Blanding's Turtle, and Snow Trillium are known to exist within the reservations wetlands

will be protected. Nesting areas for endangered migratory fowl will be protected. (More extensive list is available in the Environmental Dept.)

Historical and Archeological sites have mainly been recorded adjacent to waterways within the reservation. These sites which are within the Shoreland area will be protected.

SECTION 2.0 GENERAL PROVISIONS

2.1 JURISDICTION

The jurisdiction of this Ordinance shall include all Oneida Tribal Lands which are adjacent to wetlands, navigable waters and major drainage ways as defined herein, which would meet one or more of the following criteria:

- A. Would be inundated by the 100 year flood.
- B. Within 100 ft. of the ordinary high water mark of ponds, lakes or flowages.
- C. Within 300 ft. of the ordinary high water mark of rivers and streams.
- D. Have a slope of 12 percent or greater adjacent to the floodplain.
- E. Areas defined as wetlands.

2.2 ZONING MAP

A zoning map indicating the various areas which are under the jurisdiction of this ordinance as defined in Section 3.1 Shall be included as part of this ordinance. See Appendix A.

2.3 COMPLIANCE

Compliance with this ordinance is mandatory. The use of wetlands and the alteration of wetlands within the shoreland area of the reservation shall be full compliance with the terms of this ordinance and other applicable, state or federal regulations. (However, see Section 5.0 of this ordinance, for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this ordinance.

2.4 GREATER RESTRICTIONS

This Ordinance shall not have the effect of repealing or otherwise impairing ordinances or other regulations which are more restrictive than this Ordinance. Where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

This Ordinance supersedes all the provisions of any municipal zoning ordinance enacted under sections 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains and shoreland-wetlands.

2.5 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Oneida Tribe. Where a provision of this ordinance is required by a standard in chapter NR 117, Wis. Adm. Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Chapter NR 117, standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

2.6 SEVERABILITY

Should any portion of this ordinance be declared invalid or unconstitutional by a court of competent jurisdictions, ponds or flowages on the reservation shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance. The remainder of this ordinance shall not be affected thereby.

SECTION 3: SHORELAND-WETLAND ZONING DISTRICT

3.1 SHORELAND-WETLAND MAP

The shoreland-wetland zoning district includes all wetlands, floodplains and corresponding environmental significant areas in the Oneida Reservation which are two acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this ordinance.

3.12 DESIGNATION OF SHORELAND-WETLAND DISTRICT

A. The Environmental Significant district shall include the following:

1. All areas delineated as Wetlands.
2. The bed of all navigable waterways or major drainage ways.
3. All areas with a slope of 12 percent or greater adjacent to the floodplain.
4. Endangered species habitat.
5. Historical or Archeological sites.
6. All other areas as designated due to aesthetics uniqueness, or high potential for contamination or destruction.

B. Where the floodplain district and this district overlap, the regulations of this district shall prevail.

3.13 DESIGNATION OF FLOODPLAIN DISTRICT

A. Purpose

To allow safe discharge of flood water, to preserve storage

capacity of the floodplain, to minimize erosion and other problems which occur during times of flooding. To protect and promote the public health and general welfare.

B. Designation

The floodplain district shall include all lands adjacent to navigable waters or major drainage ways that would be inundated by the 100 year flood.

C. Where the Environmental Significant District and this district overlap, the regulations of the Environmentally Significant District shall prevail.

3.2 DISTRICT BOUNDARIES

(1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the municipality shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance.

3.21 (2) Within three hundred (300) feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance. Floodplain zoning maps adopted in Section 3.1(2) shall be used to determine the extent of floodplain areas.

3.22 Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall consult with the land office for a final determination of navigability or ordinary high-water mark.

3.23 When a apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the zoning administrator shall make a determination for amendment for the wetlands map, if the shoreland-wetland district boundary as mapped, is in error. If the Business Committee concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in Section

6.00, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period.

3.24 FILLED WETLANDS

The Tribe shall attempt to restore all wetlands that have been filled, tilled, trenched or disturbed from their there natural site. Therefore, filled wetlands are not necessarily exempt from this ordinance.

3.3 PERMITTED USES

The following uses are permitted subject to the provisions of the Oneida Tribal Constitution with its Conservation and Zoning Laws and Chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable.

3.31 Activities and uses which do not require the issuance of a zoning permit provided that no wetland alteration occurs:

(1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating.

(2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, mushrooms, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.

(3) The practice of protective silviculture.

(4) The construction and maintenance of duck blinds.

(5) Wildlife Preserves, Conservancy Areas, and Scientific Areas.

3.32 Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:

(1) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected.

(2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries.

(3) The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil,

provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible.

(4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance.

(5) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance.

(6) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

3.33 Uses which are allowed upon the issuance of a Zoning permit and which may include wetland alterations only to the extent specifically provided below:

(1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under Section 3.3, of this ordinance, provided that:

(a) The road cannot, as a practical matter, be located outside the wetland;

(b) The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in Section 6.13 of this ordinance;

(c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;

(d) Road construction activities are carried out in the immediate area of the roadbed only; and

(e) Any wetland alteration must be necessary for the construction or maintenance of the road.

(f) The pasturing of livestock;

(g) The cultivation of agricultural crops;

(2) The construction and maintenance of nonresidential buildings provided that:

- (a) The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
- (b) The building cannot, as a practical matter, be located outside the wetland;
- (c) The building does not exceed 500 square feet in floor area; and
- (d) Only limited filling and excavating necessary to provide structural support for the building is allowed.

(3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

(a) Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;

(b) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;

(c) The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Section 3.33(1) of this ordinance; and

(d) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland value.

(4) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided that:

(a) The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.

(b) Only limited filling or excavating necessary for such construction or maintenance is allowed; and

(c) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in Section 6.13 of the ordinance.

3.34 PERMITTED USES

The following shall be allowed within the floodplain provided they are not prohibited by other sections or parts of this ordinance.

- A. Agriculture, Forestry, Recreation, non-essential utilities.
- B. Floodproofing Methods:
 - 1. Placement of essential utilities above the flood protection elevation.
 - 2. Construction of Water Supply and Waste Treatment systems to prevent the entrance of flood waters.
 - 3. Cutoff valves on sewer lines of the elimination of gravity flow basement drains near the floodplain 100 year flood mark.
 - 4. Modifications to structures will not increase the amount of obstruction to flood flows.
 - 5. Any addition to a structure shall be floodproofed, by means other than the use of fill, to at least 2 ft above the 100 year flood elevation.
 - 6. No structural repairs shall exceed 50% of the assessed value of the structure adjusted to the most

3.4 PROHIBITED USES

- 3.41 Any use not listed in Section 3 and Section 4 of this ordinance is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section 6.0 of this ordinance.
- 3.42 The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

SECTION 4 NONCONFORMING STRUCTURES AND USES

4.1 GENERAL PROVISIONS:

The lawful use of a building, structure or property which existed at the time of this ordinance, or an applicable amendment to this ordinance, took effect and which is not in

conformity with the provisions of the ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- 4.12 The shoreland-wetland provisions of this ordinance authorized by 61.351, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling, or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications nonconforming structures are subject to s.62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50% of current fair market value.
- 4.13 If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this ordinance.
- 4.14 Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this ordinance adopted under Sections 61.351 or 62.231, Wis. Stats., may be continued although such use does not conform with the provisions of the ordinance. However, such nonconforming use may not be extended.
- 4.15 The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Section 30.121, Wis. Stats.
- 4.16 Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.
- 4.2 FILLING, GRADING, LAGOONING, DEGRADING OR EXCAVATING
- 4.21 No filling, grading, lagooning, dredging or excavating within a strip parallel to the shoreline and extending 50ft inland from all points along the ordinary high-water mark or within the environmentally significant district shall be allowed. A variance may be granted if it can be shown that such a proposal will not cause irreversible damage.
- 4.3 EMERGENCY
In instances of genuine emergency, individuals or parties may act in contrast to the above regulations where immediate and decisive measures are required to protect against loss of life, injury or extreme property loss.
Any individual or organization who does this must demonstrate to the zoning administrator that the time needed to secure

prior approval would have been detrimental and that reasonable means were used to deal with the situation. No hearing or permit fees shall be charged in situations involving emergency action.

4.4 NON-CONFORMING USES WHICH MUST CONFORM WITHIN A SET TIME PERIOD

(A) Setbacks for pasture and agriculture which were in existence at the time of the first adoption of this ordinance, shall come into compliance within three years following the date each case is recorded as a nonconforming use.

(B) Feedlots and Barnyards shall come into compliance for the minimum setback within 3 years that each case is recorded as nonconforming.

(C) The date which the Zoning administrator requires for compliance and contacts any individual or other party which maintains any nonconforming place shall be dependent on the severity of the case of pollution.

4.5 CONDITIONS ATTACHED TO PERMITS

In granting a special exception permit or land use permit for filling, grading, lagooning, dredging, or excavating, the following considerations shall be addressed and specific conditions shall be attached to the permit where applicable.

(A) The smallest amount of disturbed or bare ground shall be exposed for the shortest time feasible.

(B) Temporary vegetation or mulching be applied as necessary and permanent cover be established as soon as possible.

4.6 EXTRACTION OPERATIONS

(A) Gravel pits, quarries and other earth material extraction operations shall maintain a minimum setback of 100 feet from the ordinary high-water mark of navigable waterways and major drainage ways and shall not operate in the Environmental Significant District.

(B) At the time of site discontinuation or abandonment a horizontal to vertical slope of 3:1 or flatter must be obtained. The final slope must be stabilized to prevent erosion.

SECTION 5 ADMINISTRATION

5.1 ZONING ADMINISTRATOR

The Ordinance Administrator as referred to in the 1981 version is the appointed zoning administrator for the purpose of administering and enforcing this ordinance.

The Business Committee, largely through its Zoning Administrator shall have the duty and power to enforce the provisions of this ordinance and all other ordinance, laws, and orders of the Oneida Tribe of Indians which relate to shorelands, floodplains, surface waters and groundwaters of the Oneida Indian Reservation.

The Oneida Zoning Administrator shall have the following duties and powers:

- 5.12 Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
- 5.13 Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
- 5.14 Keep records of all permits issued, inspections made, work approved and other official actions.
- 5.15 Have access to any structure or premises between the hours of 8 a.m. and 6 p.m. for the purpose of performing these duties.
- 5.16 Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation, and map or text amendments within 10 days after they are granted or denied, to the appropriate district office of the Department.
- 5.17 Investigate and report violations of this ordinance to the Business Committee appeals commission. If non-tribal person is in violation then the violations will be reported to Brown County or Outagamie County Zoning Administrator.

5.2 ZONING PERMITS

5.21 WHEN REQUIRED

Unless another section of this ordinance specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any new development, as defined in section 3.3, of this ordinance, or any change in the use of an existing building or structure is initiated.

5.22 APPLICATION

An application for a zoning permit shall be made to the zoning administrator upon forms furnished by the Tribe and shall include, for the purpose of proper enforcement of these regulations, the following information:

(1) GENERAL INFORMATION

(a) Name, address, and telephone number of applicant, property owner contractor, where applicable.

(b) Legal description of the property and a general description of the proposed use or development.

(c) Whether or not a private water supply or sewage system is to be installed.

(2) SITE DEVELOPMENT PLAN

The site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

(a) Dimensions and area of the lot;

(b) Location of any structures with distances measured from the lines and center line of all abutting streets or highways;

(c) Description of any existing or proposed on-site sewage systems or private water supply systems;

(d) Location of the ordinary high-water mark of any abutting navigable waterways;

(e) Boundaries of all wetlands;

(f) Existing and proposed topographic and drainage features and vegetative cover;

(g) Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;

(h) Location of existing or future access roads; and

(i) Specifications and dimensions for areas of proposed wetland alteration.

5.23 EXPIRATION

All permits issued under the authority of this ordinance shall expire two years from the date of issue. Work permitted shall be completed prior to the expiration date. Extension for additional periods of 6 months may be granted by the zoning administrator or the adjustment committee subject to the following conditions.

(A) Extension requests be made in writing to the Zoning Administrator at least 90 days prior to the permit expiration date.

(B) Permits shall be reviewed by the Zoning Administrator.

5.3 CERTIFICATES OF COMPLIANCE

5.31 Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator subject within 15 days of an inspection which results in a verdict of project compliance. The certificate of compliance is subject to the following provisions:

(1) The certificate of compliance shall show that the building or premises listed in the permit application and the standards applicable to the conditional uses designated in section 3.33 of this ordinance. The Business Committee shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this ordinance, as are necessary to further the purpose of this ordinance as listed in section 3. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Business Committee may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine that such use conforms to the provisions of this ordinance.

5.4 CONDITIONAL USE PERMITS

5.41 APPLICATION

Any use listed as a conditional use in this ordinance shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the Business Committee following the procedures in sections 5.82, 5.83 and 5.84 of this ordinance.

5.42 CONDITIONS

Upon consideration of the permit application and the standards applicable to the conditional uses designated in section 3.33 of this ordinance, the Business Committee shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this ordinance, as are necessary to further the purposes of this ordinance as listed in section 3.

Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and type of construction. To secure information upon which to base its determination, the Business Committee may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this ordinance.

5.5 FEES

The Business Committee may, by resolution, adopt fees for the following:

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Public hearings.
- (4) Legal notice publications.
- (5) Conditional use permits.
- (6) Rezoning petitions.

(A) Any individual or other party upon filling an application for permits, receiving a certificate of compliance, or requesting a public hearing shall pay a fee to the Zoning Administrator according to the following schedule:

The fee paid shall be the greater of the two amounts.
Land use permit.....\$5.00 or .04% of the total project cost.
Public Hearing (Special...\$25.00 or .2% of the total project cost. Exception, Variances, Appeal of Administrative Decisions, Mapping Disputes)

(B) To encourage conservation practices, any project which is an approved conservation practice shall be excepted from the payment of a fee.

5.6 RECORDING

Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the zoning administrator of the land use and structures permitted.

5.7 REVOCATION

Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the zoning administrator of the land use and structures permitted.

A copy of such decision shall be mailed to the parties in interest and the Business Committee within 10 days after the decision is issued.

5.8 APPEALS

5.81 The Business Committee shall act as Board of Appeals:

(1) Shall hear and decided appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

(2) Shall hear and decide applications for conditional use permits.

(3) May authorize upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:

(a) That literal enforcement of the terms of the ordinance will result in unnecessary hardship for the applicant.

(b) That the hardship is due to special conditions unique to property; and is not self-created or based solely on economic gain or loss;

(c) That such variance is not contrary to the public interest as expressed by the purpose of this ordinance and;

(d) That such variance will not grant or increase any use of property which is prohibited in the zoning district.

5.82 APPEALS TO THE BOARD

Appeals to the Business Committee may be taken by an person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision, or determination of the zoning administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Business Committee by filing with the official whose decision is in question, and with the Business Committee, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other official whose decision is in question shall

transmit to the Business Committee all the papers constituting the record on the matter appealed.

5.83 PUBLIC HEARINGS

(1) Before making a decision on an appeal or application, the Business Committee shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing in the Tribal Newspaper a notice specifying the date, time and place of the hearing and the matters to come before the Business Committee. At the public hearing, any party may present testimony in person, by agent or by attorney. (The tribe shall not party for attorney fees).

(2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least 10 days prior to all public hearings on issues involving shoreland-wetland zoning.

5.84 DECISIONS

(1) The final disposition of an appeal or application for a conditional use permit before the Business Committee shall be in the form of a written decision, made within a reasonable time after the public hearing and signed by the Tribal Chairperson. Such decision shall state the specific fact which are the basis of the determination and shall either affirm, reverse, or modify the order, requirement, decision or determination appealed, in whole or part, dismiss the appeal for lack of jurisdiction or prosecution, or grant the application for a conditional use. All decisions are final.

SECTION 6.0 AMENDING SHORELAND-WETLAND ZONING REGULATIONS

6.1 The Oneida Tribe of Wisconsin through its Business Committee may alter, supplement or change the wetland district boundaries and the regulations contained in this ordinance and the following:

6.11 A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within 5 days of the submission of the proposed amendment to the municipal planning agency;

6.12 All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the Oneida Tribal Planning Dept and to the Environmental Dept.

6.13 A wetland may not be rezoned or a portion thereof, in the shoreland-wetland district if the proposed rezoning may

result in a significant adverse impact upon any of the following:

- (1) Storm and flood water storage capacity;
- (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
- (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Shoreline protection against erosion;
- (5) Fish spawning, breeding, nursery or feeding grounds;
- (6) Wildlife habitat; or
- (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

14 Where the Zoning Administrator or the Environmental Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in section 6.13, of this ordinance, the Department shall so notify the Business Committee of its determination either prior to or during the public hearing held on the proposed amendment.

15 The Zoning Administrator and the Environmental Department shall be provided with:

- (1) A copy of the recommendation and report, if any, of the municipal planning agency on a proposed text or map amendment, within 10 days after the submission of those recommendations to the Business Committee.
- (2) Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.

SECTION 7 ENFORCEMENT AND PENALTIES

7.1 Governmental Role.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced or any use or accessory use established after the effective date of this ordinance in violation of the

provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator shall refer violations to the Business Committee.

Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture to the Oneida Tribe of Indians the costs of Business Committee declaratory action and all costs associated with the restoration of the affected shoreland-wetland area to its original condition prior to the non-conformance to the fullest extent possible as determined by the zoning administrator. The forfeiture of costs associated with restoration may be avoided if restoration is accomplished by the individual or party in non-conformance. All restoration work shall be subject to approval by the zoning administrator.

2. NON-GOVERNMENTAL COURSE OF ACTION

Every non-conformance with the provisions of this Ordinance may be ended by the action of any individual or other party residing or located within the Oneida Indian Reservation, or any other party may forward a non-conformance to the Zoning Administrator. Upon receipt of a written petition, the zoning administrator shall establish whether or not a non-conformance exists. If it is determined that a non-conformance does exist the zoning administrator shall seek appropriate means as established in section 7 to resolve the situation. If the situation is determined to be in conformity with this ordinance, no further action is taken. This determination of the zoning administrator may be appealed according to section 5.82, 5.83, 5.84.

7.3 ADMINISTRATIVE REMEDIES

Prior to any litigation the zoning administrator shall seek to remedy any non-conformance through administrative means. The zoning administrator shall contact any party in non-conformance with this ordinance and inform them of such non-conformance. The zoning administrator shall work the individual or party to aid in developing a plan to attain compliance. Only if this fails or if there is no response from the individual or party within 30 days shall the zoning administrator pursue litigation. Where it is determined by the Zoning Administrator that immediate action is necessary to enjoin a development or land use, the zoning administrator shall bypass the above procedure, however the zoning administrator shall always contact the individual or party to seek voluntary relief prior to litigation.

7.4 SUPPLEMENTAL ENFORCEMENT AND PENALTIES:

The Business Committee and the appeals commission shall have all the powers of a court of equity including the power to enforce its orders and the power to enjoin an individual or other party.

SECTION 8. DEFINITIONS

8.1 INTERPRETATION OF TERMS:

For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified, shall be measured horizontally and shall be to the nearest integral foot; if a fraction is less than one-half foot, the next integral foot below shall be taken.

8.2 MEANING OF TERMS:

The following terms used in this ordinance mean:

The word "Tribe" shall mean the Oneida Tribe of Indians of Wisconsin.

(1) "Accessory structure or use:" means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principle structure or use to which it is related and which is located on the same lot as that of the principle structure or use.

(2) Appropriate Water Use: means the use of water, which is associated with or affects water which is consistent with the specific guidelines and the spirit of this ordinance.

(3) Associated Wetlands: are those wetland area which either influence are influenced by and are in proximity to any stream, river, or other water body.

(4) Aquatic Life: means any living organism which derives its existence and would not survive without a water environment for a significant portion of its life cycle.

(5) Barnyard: for the purpose of this ordinance means an area associated with a structure for housing domestic animals, A barnyard is the fenced area where the animals are kept.

(6) Building: Any structure intended for the support, shelter, or enclosure of any person, chattel, or property of any kind.

(7) Building Line: The line that is defined as the minimum distance a building must be set back from the road right-of-way or shall be defined as a line parallel to the road right of way which passes through the front most part of the building, whichever is greatest.

(8) "Boathouse" as defined in section 30.121 (1), Wis. Stats., means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.

(9) "Class 2 public notice" means publication of a public hearing notice in the Kaliwisaks newspaper. Publication is required at least seven days prior to the hearing.

(10) "Conditional use" means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Business Committee.

(11) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

(12) "Drainage system" means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

(13) "Environmental control facility" means any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

(14) "Fixed houseboat" as defined in section 30.121(1), Wis. Stats., means a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.

(15) "Navigable waters" means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, slough, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under sections 61.351 or 62.221, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

- (a) Such lands are not adjacent to a natural navigable stream or river;
- (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and

- (c) Such lands are maintained in nonstructural agricultural use.

"Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGaynor and Co., Inc., v. Department of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons."

(16) "Ordinary high-water mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

(17) "Planning Dept" means the Tribal planning dept which maps zoned areas.

(18) "Shorelands" means lands with the following distances from the ordinary high-water mark of navigable waters; 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(19) "Shoreland-wetland district" means the zoning district created as part of this shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this ordinance.

(20) "Special exception conditional use" means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the Business Committee.

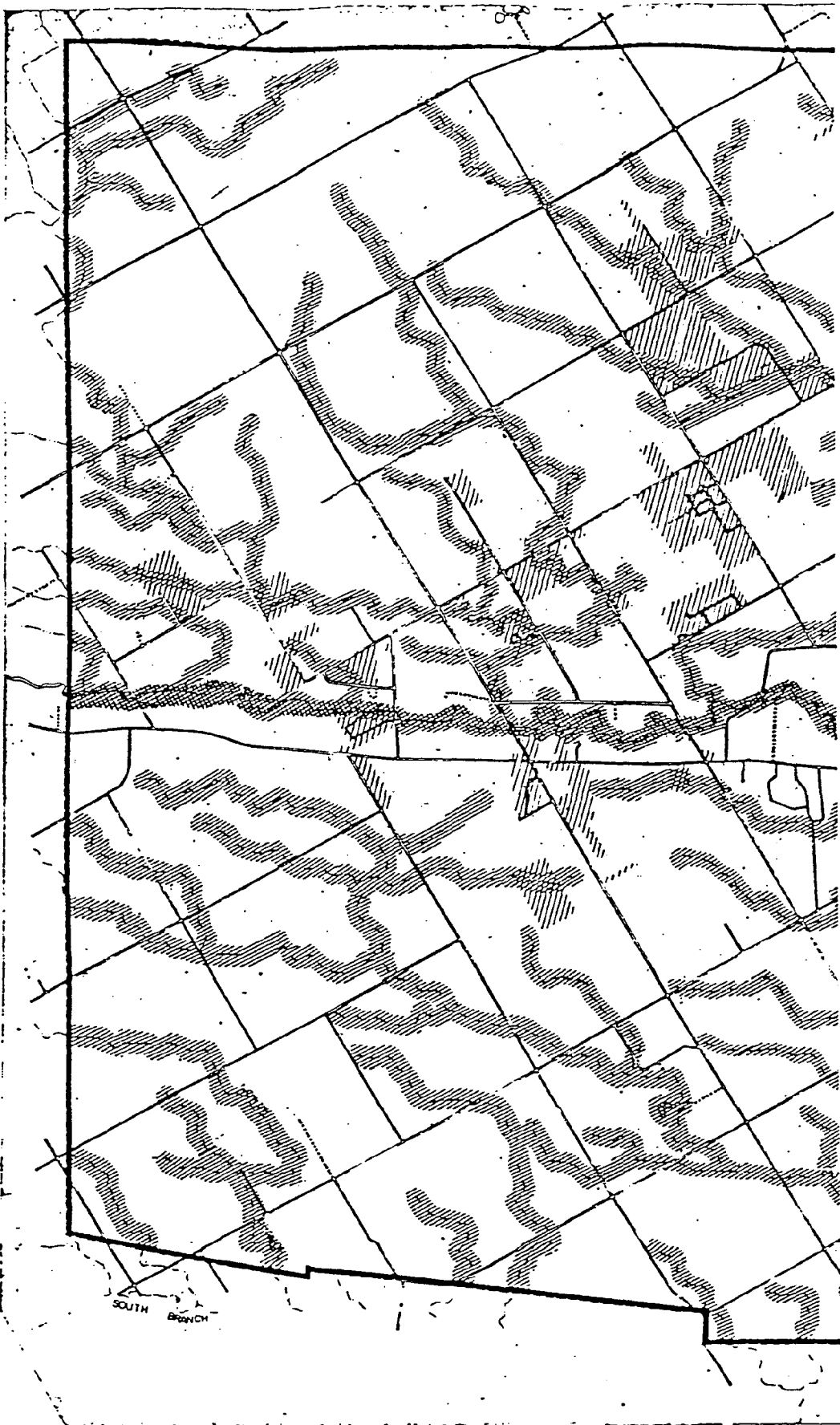
(21) "Unnecessary hardship" means that circumstances where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

(22) "Variance" means an authorization granted by the Business Committee that deviates from the dimensional standards of this ordinance.

(23) "Wetlands" means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

APPENDIX A

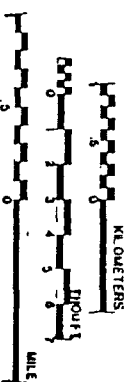
Oneida Shoreland Protection Ordinance Map



ONEIDA RESERVATION SHORELAND ORDINANCE MAP **COASTAL MANAGEMENT PROGRAM**

APPROVED JANUARY 25, 1982
 ONEIDA TRIBAL BUSINESS COMMITTEE

[Symbol] TRIBAL LAND
 [Symbol] (OUTLYING DISTRICT)
 [Symbol] SHORELAND ZONE
 [Symbol] FL OODPLAIN DISTRICT
 [Symbol] ENVIRONMENTALLY
 SIGNIFICANT DISTRICT



JANUARY 1981
 FROM 1971 AND 1974
 U.S.G. BASE MAPS
 T.P. WHITE
 M. SCHAEPE
 R. LATTINEN



